



Substitute Senate Bill No. 1109

Public Act No. 11-50

AN ACT CONCERNING BANKS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Subsection (b) of section 36a-17 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2011*):

(b) Any Connecticut bank, Connecticut credit union or Connecticut credit union service organization which causes or has caused any electronic data processing services to be performed for such bank, credit union or credit union service organization either on or off its premises by an electronic data processing servicer shall enter into a written contract with such servicer. Such contract shall specify the duties and responsibilities of the bank, credit union or credit union service organization and such servicer and provide that such servicer shall allow the commissioner to examine such servicer's books, records and computer systems in accordance with this subsection, if required by the commissioner. The Connecticut bank, Connecticut credit union or Connecticut credit union service organization shall promptly [send a copy of such contract to] notify the commissioner of any material change in its electronic data processing services. The commissioner may examine the books, records and computer systems of any electronic data processing servicer that performs electronic data

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processing services for a Connecticut bank, Connecticut credit union or Connecticut credit union service organization, if such services substantially impact the operations of the Connecticut bank, Connecticut credit union or Connecticut credit union service organization as determined by the commissioner, in order to (1) determine whether such servicer has the capacity to protect the customer information of such bank, credit union or credit union service organization, and (2) assess such servicer's potential for continued service. The commissioner may assess a fee of one hundred fifty dollars per day plus costs for each examiner who conducts such examination, the total cost of which the commissioner may allocate on a pro rata basis to all Connecticut banks, Connecticut credit unions and Connecticut credit union service organizations under contract with such servicer.

Sec. 2. Subsection (a) of section 36a-59 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) The commissioner may enter into one or more stipulations and agreements, [or] memoranda of understanding or consent orders with a Connecticut bank, either alone or in conjunction with the Federal Deposit Insurance Corporation, a Federal Reserve Bank or [its] their successor [agency] agencies, or may enter into one or more letters of understanding and agreement, [or] memoranda of understanding or consent orders with, or issue preliminary warning letters to, a Connecticut credit union or Connecticut credit union service organization, either alone or in conjunction with the National Credit Union Administration or its successor agency, if the commissioner finds as a result of an examination or investigation that the Connecticut bank, Connecticut credit union or Connecticut credit union service organization: (1) Has failed to file a report when due, (2) is insolvent, (3) has violated any provisions of the general statutes

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within the jurisdiction of the commissioner, or any regulation, rule or order adopted or issued thereunder, or (4) has engaged or participated in, or is engaging or participating in, any unsafe and unsound practice.

Sec. 3. Subdivision (1) of subsection (d) of section 36a-65 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(d) (1) The fee for investigating and processing each application is as follows:

(A) Establishment of (i) a branch under subdivision (1) of subsection (b) of section 36a-145, two thousand dollars; (ii) a mobile branch under subdivision (1) of subsection (d) of section 36a-145, one thousand five hundred dollars; (iii) a limited branch under subdivision (1) of subsection (c) of section 36a-145, one thousand five hundred dollars; (iv) a special need limited branch under subdivision (4) of subsection (c) of section 36a-145, five hundred dollars; (v) an out-of-state branch under subsection (j) of section 36a-145, a reasonable fee not to exceed two thousand dollars from which any fees paid to a state other than this state or to a foreign country in connection with the establishment shall be deducted; and (vi) an out-of-state limited branch or mobile branch under subsection (j) of section 36a-145, a reasonable fee not to exceed one thousand five hundred dollars from which any fees paid to a state other than this state or to a foreign country in connection with the establishment shall be deducted.

(B) Sale of (i) a branch under subsection (i) of section 36a-145, two thousand dollars, except there shall be no fee for the sale of a branch of a Connecticut bank to another Connecticut bank or to a Connecticut credit union; and (ii) a limited branch, including a special need limited branch or mobile branch under subsection (i) of section 36a-145, a fee not to exceed one thousand five hundred dollars.

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(C) Relocation of (i) a main office of a Connecticut bank under subsection (a) of section 36a-81, two thousand dollars; and (ii) a branch or a limited branch under [subsection] subsections (g) and (k) of section 36a-145, five hundred dollars.

(D) Conversions from (i) a branch to a limited branch under subdivision (3) of subsection (c) of section 36a-145; and (ii) a limited branch to a branch under subdivision (3) of subsection (b) of section 36a-145, five hundred dollars.

(E) Merger or consolidation involving a Connecticut bank under section 36a-125 or subsection (a) of section 36a-126, two thousand five hundred dollars if two institutions are involved and five thousand dollars if three or more institutions are involved.

(F) Acquisition of assets or business under section 36a-210, two thousand five hundred dollars.

(G) Organization of a holding company under section 36a-181, two thousand five hundred dollars.

(H) Organization of any Connecticut bank under section 36a-70, as amended by this act, including the conditional preliminary approval for an expedited bank, fifteen thousand dollars, except no fee shall be required for the organization of an interim Connecticut bank.

(I) Reorganization of a mutual savings bank or mutual savings and loan association into a mutual holding company under section 36a-192, five thousand dollars.

(J) Conversions under (i) sections 36a-135 to 36a-138, inclusive, five thousand dollars; (ii) sections 36a-139, 36a-139a and 36a-469c, two thousand five hundred dollars; and (iii) section 36a-139b, fifteen thousand dollars.

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(K) Acquiring, altering or improving real estate for present or future use in the business of the bank or purchasing real estate adjoining any parcel of real estate owned by the bank under subdivision (33) of subsection (a) of section 36a-250, five hundred dollars, except that no fee shall be charged for such application if it is filed in connection with an application to relocate a main office of a Connecticut bank under subsection (a) of section 36a-81 or establish (i) a branch in this state under subdivision (1) of subsection (b) of section 36a-145, (ii) a limited branch in this state under subdivision (1) of subsection (c) of section 36a-145, or (iii) a branch or limited branch outside of this state under subsection (j) of section 36a-145.

(L) Investigation and processing an interstate banking transaction application filed under section 36a-411 or 36a-412, two thousand five hundred dollars, unless the transaction otherwise requires an investigation and processing fee under this section.

(M) Issuance of a final certificate of authority for an expedited Connecticut bank, [except for a conditional preliminary approval,] fifteen thousand dollars.

Sec. 4. Subsection (p) of section 36a-70 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(p) (1) One or more persons may organize an interim Connecticut bank solely (A) for the acquisition of an existing bank, whether by acquisition of stock, by acquisition of assets, or by merger or consolidation, or (B) to facilitate any other corporate transaction authorized by this title in which the commissioner has determined that such transaction has adequate regulatory supervision to justify the organization of an interim Connecticut bank. Such interim Connecticut bank shall not accept deposits or otherwise commence business. Subdivision (2) of subsection (c) and subsections (d), (f), (g), (h) and (o)

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of this section shall not apply to the organization of an interim bank, provided the commissioner may, in the commissioner's discretion, order a hearing under subsection (e) or require that the organizers publish or mail the proposed certificate of incorporation or both. The approving authority for an interim Connecticut bank shall be the commissioner acting alone. If the approving authority determines that the organization of the interim Connecticut bank complies with applicable law, the approving authority shall issue a temporary certificate of authority conditioned on the approval by the appropriate supervisory agency of the corporate transaction for which the interim Connecticut bank is formed.

(2) (A) Notwithstanding any provision of this title, for the period from [October 1, 2009,] the effective date of this section to September 30, [2011] 2013, inclusive, one or more persons may apply to the commissioner for the conditional preliminary approval of [an] one or more expedited Connecticut [bank] banks organized primarily for the purpose of assuming liabilities and purchasing assets from the Federal Deposit Insurance Corporation when the Federal Deposit Insurance Corporation is acting as receiver or conservator of an insured depository institution. The [person or persons organizing an expedited Connecticut bank shall execute, acknowledge and file with the commissioner an application to organize. Such] application shall be made on a form acceptable to the commissioner and shall be executed and acknowledged by the applicant or applicants. Such application shall contain sufficient information for the commissioner to evaluate (i) the amount, type and sources of capital that would be available to the bank or banks; (ii) the ownership structure and holding companies, if any, over the bank or banks; (iii) the identity, biographical information and banking experience of each of the initial organizers and prospective initial directors, senior executive officers and any individual, group or proposed shareholders of the bank that will own or control ten per cent or more of the stock of the bank or banks; (iv)

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the overall strategic plan of the organizers and investors for the bank or banks; and (v) a preliminary business plan outlining intended product and business lines, retail branching plans and capital, earnings and liquidity projections. The commissioner, acting alone, shall grant conditional preliminary approval of such application to organize if the commissioner determines that the organizers have available sufficient committed funds to invest in the bank or banks; the organizers and proposed directors possess capacity and fitness for the duties and responsibilities with which they will be charged; the proposed bank [charter has] or banks have a reasonable chance of success and will be operated in a safe and sound manner; and the fee for investigating and processing the application has been paid in accordance with subparagraph (H) of subdivision (1) of subsection (d) of section 36a-65, as amended by this act. Such preliminary approval shall be subject to such conditions as the commissioner deems appropriate, including the requirements that the bank or banks not commence the business of a Connecticut bank until after [its] their bid or application for a particular insured depository institution is accepted by the Federal Deposit Insurance Corporation, that the background checks are satisfactory, and that the organizers submit, for the safety and soundness review by the commissioner, more detailed operating plans and current financial statements as potential acquisition transactions are considered, and such plans and statements are satisfactory to the commissioner. The commissioner may alter, suspend or revoke the conditional preliminary approval if the commissioner deems any interim development warrants such action. The conditional preliminary approval shall expire eighteen months from the date of approval, unless extended by the commissioner. [, if the bank has not commenced business and consummated an initial acquisition.]

(B) The commissioner shall not issue a final certificate of authority to commence the business of a Connecticut bank or banks under this subdivision until all conditions and preopening requirements and

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applicable state and federal regulatory requirements have been met and the fee for [assuming liabilities and purchasing assets] issuance of a final certificate of authority for an expedited Connecticut bank has been paid in accordance with subparagraph (M) of subdivision (1) of subsection (d) of section 36a-65, as amended by this act. The commissioner may waive any requirement under this title or regulations adopted under this title that is necessary for the consummation of [a bank] an acquisition involving an expedited Connecticut bank if the commissioner finds that such waiver is advisable and in the interest of depositors or the public, provided the commissioner shall not waive the requirement that the institution's insurable accounts or deposits be federally insured. Any such waiver granted by the commissioner under this subparagraph shall be in writing and shall set forth the reason or reasons for the waiver. The commissioner may impose conditions on the final certificate of authority as the commissioner deems necessary to ensure that the bank will be operated in a safe and sound manner. The commissioner shall cause notice of the issuance of the final certificate of authority to be published in the department's weekly bulletin.

Sec. 5. Subsection (j) of section 36a-261 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2011*):

(j) Loans made under this section may be for the purpose of building upon or improving the property of the borrower, and may be made in installments advanced at the discretion of the lending institution as the work progresses; provided at no time shall the ratio of the amount loaned to the then total value exceed [fifty per cent or] the ratio the final loan is to bear to the value of the completed property. [, whichever is the greater.] Loans made to finance the construction of buildings and having a maturity of not more than twenty-four months or having a maturity of not more than thirty-six

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months if approved by the commissioner are not subject to the limitations imposed by this subsection.

Sec. 6. Subsection (a) of section 36a-263 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2011*):

(a) As used in this section, "executive officer" has the meaning given to such term in [12 CFR 215.2 of Subpart A] Section 215.2 of Federal Reserve Board Regulation O, 12 CFR Part 215, as from time to time amended. With the exception of [Sections] Section 215.7 [and 215.13 of Subpart A] of Federal Reserve Board Regulation O, 12 CFR Part 215, as from time to time amended, Connecticut banks are subject to and shall comply with the restrictions contained in 12 CFR [Sections] Section 337.3, [and 349,] as from time to time amended, and no executive officer, director or principal shareholder of a Connecticut bank or any of its affiliates shall knowingly receive, or knowingly permit any of such person's related interests to receive, from a Connecticut bank, directly or indirectly, any extension of credit that violates such restrictions. No executive officer, director, employee, agent or other person shall participate in any conduct of the affairs of the bank that violates this subsection.

Sec. 7. Subsections (d) and (e) of section 36a-276 of the general statutes are repealed and the following is substituted in lieu thereof (*Effective from passage*):

(d) In addition to other investments authorized by sections 36a-275 to 36a-277, inclusive, and 36a-280, any Connecticut bank, with the approval of the commissioner, may purchase or hold for its own account, without regard to any other liability to the Connecticut bank of the issuer, a controlling interest in a corporation or other entity, the functions of which are limited to one or more of the functions which the bank may carry on directly in the exercise of its express or

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incidental powers. For purposes of this subsection and subsection (e) of this section, a "controlling interest" means at least fifty-one per cent of the equity securities issued by the corporation or other entity, unless the commissioner determines that under the circumstances, a lesser percentage constitutes effective working control of the corporation or other entity.

(e) The bank shall notify the commissioner, in writing, twenty-four hours prior to making any investment under subsections (b) and (c) of this section which would result in such bank having invested in the aggregate in twenty-five per cent or more of the equity securities of a corporation. Notwithstanding the provisions of this subsection, any investment in a controlling interest in a corporation or other entity, the functions of which are limited to one or more of the functions that the bank may carry on directly in the exercise of its express or incidental powers, shall be made in accordance with subsection (d) of this section.

Sec. 8. Section 36a-330 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

As used in sections 36a-330 to 36a-338, inclusive, unless the context otherwise requires:

(1) "Business day" means any day other than a Saturday, Sunday or day on which a financial institution is closed as required or authorized by state or federal law;

(2) "Close of business" means the time at which a financial institution closes for regular business operations on any business day;

[(1)] (3) "Eligible collateral" means (A) United States treasury bills, notes and bonds, (B) United States government agency securities, (C) United States agency variable-rate securities, (D) mortgage pass-through or participation certificates or similar securities, (E)

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performing one-to-four-family residential mortgage loans that meet the following criteria: (i) The mortgage loan has a loan-to-value ratio which is less than or equal to eighty per cent for loans without private mortgage insurance, or a loan-to-value ratio which is less than or equal to ninety-five per cent for loans with private mortgage insurance; and (ii) the mortgage loan has a payment history of not more than one payment over thirty days in arrears during the past twelve consecutive months or, if the loan has a payment history of less than twelve months in duration, the loan meets the documentation requirements of the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation; provided, in the case of a subsequent default under any such mortgage loan that continues uncured for more than sixty days, such loan shall no longer qualify as eligible collateral and shall be replaced by a performing mortgage loan that meets the criteria set forth in this subdivision, and (F) state and municipal bonds;

[(2)] (4) "Financial institution" means a bank, Connecticut credit union, federal credit union or an out-of-state bank that maintains in this state a branch as defined in section 36a-410;

[(3)] (5) "Loss" means issuance of an order of supervisory authority restraining a qualified public depository from making payments of deposit liabilities or the appointment of a receiver for a qualified public depository;

[(4)] (6) "Public deposit" means (A) moneys of this state or of any governmental subdivision of this state or any commission, committee, board or officer thereof, any housing authority or any court of this state and (B) moneys held by the Judicial Department in a fiduciary capacity;

[(5)] (7) "Qualified public depository" or "depository" means a bank, Connecticut credit union, federal credit union or an out-of-state bank that maintains in this state a branch, as defined in section 36a-410,

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which receives or holds public deposits and (A) segregates eligible collateral for public deposits as described in section 36a-333, as amended by this act, or (B) arranges for a letter of credit to be issued in accordance with section 36a-337.

Sec. 9. Subsection (a) of section 36a-333 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) To secure public deposits, each qualified public depository shall at all times maintain, segregated from its other assets as provided in subsection (b) of this section, eligible collateral in an amount at least equal to the following percentage of public deposits held by the depository: (1) For any qualified public depository having a risk-based capital ratio of ten per cent or greater, a sum equal to ten per cent of all public deposits held by the depository; (2) for any qualified public depository having a risk-based capital ratio of less than ten per cent but greater than or equal to eight per cent, a sum equal to twenty-five per cent of all public deposits held by the depository; (3) for any qualified public depository having a risk-based capital ratio of less than eight per cent but greater than or equal to three per cent, a sum equal to one hundred per cent of all public deposits held by the depository; (4) for any qualified public depository having a risk-based capital ratio of less than three per cent, and, notwithstanding the provisions of subdivisions (1) to (3), inclusive, of this subsection, for any qualified public depository which has been conducting business in this state for a period of less than two years except for a qualified public depository that is a successor institution to a qualified public depository which conducted business in this state for two years or more, a sum equal to one hundred and twenty per cent of all public deposits held by the depository; provided, the qualified public depository and the public depositor may agree on an amount of eligible collateral to be maintained by the depository that is greater

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than the minimum amounts required under subdivisions (1) to (4), inclusive, of this subsection; (5) notwithstanding the risk-based capital ratio provisions of subdivisions (1) to (3), inclusive, of this subsection, for any qualified public depository that is an uninsured bank, a sum equal to one hundred twenty per cent of all public deposits held by the depository; and (6) notwithstanding the risk-based capital ratio provisions of subdivisions (1) to (3), inclusive, of this subsection, for any qualified public depository that is subject to an order to cease and desist, consent order or a preliminary warning letter, or has entered into a stipulation and agreement, memorandum of understanding or a letter of understanding and agreement with a bank or credit union supervisor, a sum equal to one hundred twenty per cent of all public deposits held by the depository, provided, the qualified public depository and the public depositor may agree on an amount of eligible collateral to be maintained by the depository that is greater than the minimum amounts required under subdivisions (1) to (6), inclusive, of this subsection. For purposes of this subsection, the amount of all public deposits held by the depository shall be determined [based on either the public deposits reported on the most recent written report filed with the commissioner pursuant to section 36a-338 or the average of the public deposits reported on the four such most recent written reports, whichever amount is greater] at the close of business on the day of receipt of any public deposit and any deficiency in the amount of eligible collateral required under this section shall be cured not later than the close of business on the following business day. For purposes of this subsection, the depository's risk-based capital ratio shall be determined, in accordance with applicable federal regulations and regulations adopted by the commissioner in accordance with chapter 54, based on the most recent quarterly call report, provided (A) if, during any calendar quarter after the issuance of such report, the depository experiences a decline in its risk-based capital ratio to a level that would require the depository to maintain a higher amount of eligible collateral under subdivisions (1)

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to (4), inclusive, of this subsection, the depository shall increase the amount of eligible collateral maintained by it to the minimum required under subdivisions (1) to (4), inclusive, of this subsection based on such lower risk-based capital ratio and shall notify the commissioner of its actions; and (B) if, during any calendar quarter after the issuance of such report, the commissioner reasonably determines that the depository's risk-based capital ratio is likely to decline to a level that would require the depository to maintain a higher amount of eligible collateral under subdivisions (1) to (4), inclusive, of this subsection, the commissioner may require that the depository increase the amount of eligible collateral maintained by it to the minimum required under subdivisions (1) to (4), inclusive, of this subsection based on the commissioner's determination of such lower risk-based capital ratio.

Sec. 10. Section 36a-334 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

When the commissioner determines that a loss has occurred, the commissioner shall as soon as possible make payment to the proper public officers of all public deposits subject to such loss, pursuant to the following procedure: (1) For the purposes of determining the sums to be paid, the commissioner or receiver shall, within twenty days after issuance of a restraining order or taking possession of any qualified public depository, ascertain the amount of public deposits held by the depository as disclosed by its records and the amount thereof covered by deposit insurance and certify the amounts to each public depositor having public funds on deposit in the depository; (2) within ten days after receipt of such certification, each such public depositor shall furnish to the commissioner verified statements of its deposits in the depository as disclosed by its records plus information concerning any letters of credit issued to the public depositor or any private insurance policy used to secure public deposits, pursuant to section 36a-337; (3) upon receipt of such certificate and statements, the commissioner shall

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ascertain and fix the amount of such public deposits, net after deduction of any deposit insurance and any amount received or to be received by the public depositor pursuant to a letter of credit or private insurance policy issued in accordance with section 36a-337, and assess the same against the depository in which the loss occurred; (4) the assessment made by the commissioner shall be payable on the second business day following demand, and in case of the failure of the qualified public depository so to pay, the commissioner shall immediately take possession of the eligible collateral, if any, segregated by the depository pursuant to sections 36a-330 to 36a-338, inclusive, as amended by this act, and liquidate the same for the purpose of paying such assessment; (5) upon receipt of the assessment, the commissioner shall reimburse the public depositors of the depository in which the loss occurred to the extent of the depository's net deposit liability to them.

Sec. 11. Subsection (b) of section 36a-380 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2011*):

(b) (1) Application for such license shall be in writing upon forms to be furnished by the commissioner and shall contain the full name and address of the applicant corporation and of each of its officers and a statement of the assets and liabilities of such corporation in such form as the commissioner requires. If, upon examination of such application and upon any further investigation that the commissioner deems necessary, the commissioner is satisfied that such corporation is solvent and conducting its business according to law, the commissioner may issue to such corporation a license to receive property in trust and to execute and administer trusts to the extent and in the manner authorized by the charter of such corporation or by any general or special law of this state, but not otherwise. If it appears to the commissioner that any such applicant corporation is insolvent, or

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that its business is being conducted contrary to law or to the provisions of its charter, the commissioner shall refuse to issue such license.

(2) In connection with an application for such license and at any other time, the commissioner may, in accordance with section 29-17a, arrange for a criminal history records check requiring the fingerprinting of each principal, executive officer and director of the corporation or conducting of any other method of positive identification of such individuals required by the State Police Bureau of Identification.

Sec. 12. Subsection (c) of section 36a-437a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2011*):

(c) In connection with an application to organize and at any other time the commissioner requests, each organizer, director, and member of senior management of a Connecticut credit union shall provide fingerprints to the commissioner for use in conducting criminal history records checks. Such criminal history records checks shall be conducted in accordance with section 29-17a.

Sec. 13. Subdivision (3) of section 36a-455a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(3) Make and use its best efforts to make secured and unsecured loans and other extensions of credit to its members in accordance with section 36a-265 and sections 36a-457a, 36a-457b and 36a-458a;

Sec. 14. Section 36a-628 of the general statutes is amended by adding subsection (c) as follows (*Effective July 1, 2011*):

(NEW) (c) In connection with an application for such license and at

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any other time, the commissioner may, in accordance with section 29-17a, arrange for a criminal history records check requiring the fingerprinting of each principal, executive officer and director of the business and individual development corporation or for conducting any other method of positive identification of such individuals required by the State Police Bureau of Identification.

Sec. 15. (NEW) (*Effective from passage*) A Connecticut bank may merge with one or more of its affiliates that are not banks or out-of-state banks, provided the resulting institution is a Connecticut bank. Such merger shall be effected in accordance with the provisions of section 36a-125 of the general statutes, except, with respect to any provision therein governing corporate procedure, including the rights of dissenting members or shareholders who assert existing appraisal rights, such affiliate shall comply with the laws of the state or other jurisdiction under which such affiliate is organized. Any such affiliate shall also comply with other applicable laws of the state or other jurisdiction under which such affiliate is organized concerning such mergers.

Approved June 13, 2011